



GABRIEL P. HARVIS  
BAREE N. FETT

July 11, 2017

By ECF

Honorable Cheryl L. Pollak  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Martinez v. City of New York, et al.*, 16 CV 79 (AMD) (CLP)

Your Honor:

I represent plaintiff in the above-referenced action. I write with deep reluctance to respectfully inform the Court that defendants have failed to comply with several aspects of the June 29, 2017 discovery order (DE #58).

If it should please the Court, the documents at issue have been the subject of repeated discovery orders over the past eleven months. Plaintiff has now taken four depositions without the benefit of these documents and will conduct a further deposition tomorrow pursuant to the schedule endorsed at DE #56.

❖ **Central Booking Medical Screening Form**

By order dated August 19, 2016, defendants were required to produce this key document by September 30, 2016. DE #20. The document was never produced, and no application appeared on the docket seeking relief from the deadline. Following a supplemental application by the plaintiff, the Court again ordered the document (or an affidavit) produced, setting a July 10, 2017 deadline. DE #58. For a second time, defendants ignored the production deadline and plaintiff is presently without the document or any affidavit.<sup>1</sup>

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<sup>1</sup> On July 5, 2017, nine months after the Court had ordered the document produced, defendants notified plaintiff by email for the first time that a certain release was necessary to obtain the screening form. Plaintiff hand delivered the notarized release the following day.

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❖ **Medical Treatment of Prisoner Form and Central Booking Command Log**

In its June 29<sup>th</sup> order, the Court directed defendants to make these two documents available for inspection by plaintiff no later than July 10, 2017. DE #58. Each was also previously the subject of the Court's August 19, 2016 order. DE #20. Defendants failed to meet the Court's deadline and have not allowed plaintiff access to the original documents as of this writing.

Plaintiff is now tasked with deposing two Central Booking witnesses this week, beginning tomorrow, without critical documents that were previously the subject of this Court's discovery orders. Plaintiff respectfully submits that defendants' conduct has thus prejudiced her in the prosecution of her claims, and respectfully requests that the Court impose an appropriate remedy pursuant to Fed. R. Civ. P. 37(b)(2)(A).

Thank you for your consideration of this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Baree N. Fett', with a stylized flourish at the end.

Baree N. Fett

cc: ACC Paul Johnson, Esq.